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PAUL, WEISS, RIKKIND, WHARTON &amp; GARRISON LLP

1285 AVENUE OF THE AMERICAS  
NEW YORK, NEW YORK 10019-6064  
TELEPHONE (212) 373-3000

LLOYD K GARRISON (1946-1991)  
RANDOLPH E. PAUL (1946-1995)  
SIMON H. RIKKIND (1950-1993)  
LOUIS S. WEISS (1927-1950)  
JOHN F. WHARTON (1927-1977)

WRITER'S DIRECT DIAL NUMBER

212-373-3460

WRITER'S DIRECT FACSIMILE

212-373-0460

WRITER'S DIRECT E-MAIL ADDRESS

afinch@paulweiss.com

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Via ECF

The Honorable P. Kevin Castel  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

UNIT 3601, OFFICE TOWER A, BEIJING FORTUNE PLAZA  
NO. 7 DONGSANGHUA ZHONGLU  
CHAOYANG DISTRICT  
BEIJING 100020  
PEOPLE'S REPUBLIC OF CHINA  
TELEPHONE (86-10) 5828-6300

12TH FLOOR, HONG KONG CLUB BUILDING  
3A CHATER ROAD, CENTRAL  
HONG KONG  
TELEPHONE (852) 2846-0300

ALOER CASTLE  
10 NOBLE STREET  
LONDON EC2V 7JU U.K.  
TELEPHONE (44 20) 7367 1600

FUKOKU SEIMEI BUILDING  
2-2 UCHISAIWAICHO 2-CHOME  
CHIYODA-KU, TOKYO 100-0011 JAPAN  
TELEPHONE (81-3) 3597-8101

TORONTO-DOMINION CENTRE  
77 KING STREET WEST SUITE 3100  
PO BOX 226  
TORONTO ONTARIO M5K 1J3  
TELEPHONE (416) 504-0520

2001 K STREET, NW  
WASHINGTON DC 20006-1047  
TELEPHONE (202) 223-7300

500 DELAWARE AVENUE, SUITE 200  
POST OFFICE BOX 32  
WILMINGTON DE 19899-0032  
TELEPHONE (302) 686-4410

MATTHEW W. ABBOTT  
EDWARD T. ACHERMAN  
ALLAN J. ARFFA  
ROBERT A. ATKINS  
DAVID J. BALL  
JOHN F. BAUGHMAN  
LYNN B. BAYARD  
DANIEL J. BELLER  
CRAIG A. BENSON  
MITCHELL L. BERG  
MARK S. BERGMAN  
BRUCE BIRENBOIM  
H. CHRISTOPHER BOEHNING  
ANGELO BONVINO  
JAMES L. BROCHIN  
RICHARD J. BRONSTEIN  
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SUSANNA M. BUERGEL  
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JEANETTE K. CHAN  
YVONNE Y. F. CHAN  
LEWIS R. CLAYTON  
JAY COHEN  
KELLEY A. CORNISH  
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LESLIE GORDON FAGEN  
MARC FALCONE  
ROSS A. FIELDSTON  
ANDREW C. FINCH  
BRAD J. FINKELSTEIN  
BRIAN P. FINKELMAN  
ROBERTO FINZI  
PETER E. FISCH  
ROBERT C. FLEDER  
MARTIN FLUMENBAUM  
ANDREW J. FOLEY  
HARRIS S. FREIDUS  
MANUEL S. FREY  
ANDREW L. GAINES  
KENNETH A. GALLO  
MICHAEL E. GERTZMAN  
ADAM M. GIVERTZ  
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NEIL GOLDMAN  
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ERIC GOODISON  
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UDI GORFMAN  
NICHOLAS GROOMERIDGE  
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BRIAN S. HERMANN  
NICOLE HIRSHMAN  
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DAVID S. HUNTINGTON  
AMIRAN KUSSEIN  
LORETTA J. IFFOLITO  
BRIAN M. JANSON  
JAREN JANGHORBANI  
HEREDITH J. KANE  
ROBERTA A. KAPLAN  
BRAD S. KARP  
PATRICK N. KARSNITZ  
JOHN C. KENNEDY  
BRIAN KIM  
ALAN W. KORBERG  
DANIEL J. KRAKER  
DAVID K. LAKHDHIR  
STEPHEN P. LAMB  
JOHN E. LANGE  
DANIEL J. LEFFELL  
XIAOYU GREG LIU  
JEFFREY D. MARELL  
MARCO V. MASOTTI  
EDWIN S. MAYNARD  
DAVID W. MAYO  
ELIZABETH R. MCCOLM  
MARK F. MENDELSON  
WILLIAM S. MICHAEL  
TOBY S. MYERSON  
CATHERINE NYARADY  
JANE B. O'BRIEN  
ALEXANDER K. OH  
BRAD R. OKUN  
KELLEY O. PARKER  
MARC E. PERLMUTTER  
VALERIE E. RADWANER  
CARL L. REISNER  
LORIN L. REISNER  
WALTER O. RICCIARDI  
WALTER RIEMAN  
RICHARD A. ROSEN  
ANDREW N. ROSENBERG  
JACQUELINE P. RUBIN  
RAFAEL M. RUSSO  
ELIZABETH N. SACKSTEDER  
JEFFREY D. SAFERSTEIN  
JEFFREY S. SCHAFFEL  
DALE M. SARRO  
TERRY E. SCHIMEK  
KENNETH H. SCHNEIDER  
ROBERT B. SCHUMER  
JOHN M. SCOTT  
STEPHEN J. SHIMSHAK  
DAVID R. SICULAR  
MOSES SILVERMAN  
STEVEN SIMKIN  
JOSEPH J. SIMONS  
AUDRA J. SOLOWAY  
SCOTT M. SONTAG  
TARUN M. STEWART  
ERIC ALAN STONE  
AIDAN SYNNOTT  
ROBIN F. TARNOFSKY  
MONICA K. THURMOND  
DANIEL J. TOAL  
LIZA M. VELAZQUEZ  
MARIA T. VULLO  
ALEXANDRA M. WALSH  
LAWRENCE G. WEE  
THEODORE V. WELLS, JR.  
BETH A. WILKINSON  
STEVEN J. WILLIAMS  
LAWRENCE I. WITDORCHIC  
MARK B. WLAZLO  
JULIA MASON WOOD  
JENNIFER H. WU  
JORDAN E. YARETT  
KAYE M. YOSHINO  
TONG YU  
TRACEY A. ZACCONE  
TAURIE M. ZEITZER  
T. ROBERT ZOCHOWSKI, JR.

\*NOT ADMITTED TO THE NEW YORK BAR

November 16, 2015

MEMO ENDORSED

Sullivan v. Barclays PLC et al., No. 13-cv-2811

Dear Judge Castel:

This firm represents Deutsche Bank AG and DB Group Services (UK) Limited in the above-captioned action. I write on behalf of our clients and Defendants Citigroup, Inc., Citibank, N.A., Coöperatieve Centrale Raiffeisen-Boerenleenbank, B.A., Crédit Agricole S.A., Crédit Agricole CIB, HSBC Holdings plc, HSBC Bank plc, JPMorgan Chase & Co., JPMorgan Chase Bank, N.A., the Royal Bank of Scotland plc, Société Générale, UBS AG, ICAP plc, and ICAP Europe Limited (collectively, the "Non-Settling Defendants").

We write in response to Plaintiffs' Motion for Preliminary Approval of Class Action Settlement with Barclays plc, Barclays Bank plc, and Barclays Capital Inc. ("Barclays") (Dkt. No. 216). We respectfully request that additional language be added to the proposed order preliminarily approving the settlement (Dkt. No. 216-1) clarifying that the Court's preliminary approval of the proposed settlement class does not prejudice the Non-Settling Defendants' ability to challenge certification of any proposed litigation class. We have conferred with counsel for Plaintiffs and Barclays and they do not oppose this request.

PAUL, WEISS, RIFKIND, WHARTON &amp; GARRISON LLP

Hon. P. Kevin Castel

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As part of their motion for preliminary approval of their settlement with Barclays, Plaintiffs request that the Court certify a settlement class covering a wide variety of financial transactions, including all allegedly U.S.-based transactions during a nearly six-year period in "Euribor Products," defined as:

Interest rate swaps, forward rate agreements, futures, options, structured products, and any other instrument or transaction related in any way to Euribor, including but not limited to, NYSE LIFFE Euribor futures contracts and options, CME Euro currency futures contracts and options, Euro currency forward agreements, Euribor-based swaps, Euribor-based forward rate agreements and/or any other financial instruments that reference Euribor.<sup>1</sup>

The Non-Settling Defendants would vigorously challenge certification of any such class in this litigation, were Plaintiffs to move the Court to do so. Accordingly, the Non-Settling Defendants respectfully request that, should the Court grant preliminary approval of the settlement, its order clarify that any approval is without prejudice to the Non-Settling Defendants' ability to challenge certification of a litigation class. To accomplish this, we propose that the following language be added to the proposed order:

[The] Court's [preliminary] certification of the Settlement Class, and appointment of Plaintiffs as Class Representatives, as provided herein is without prejudice to, or waiver of, the rights of any Defendant to contest any other request by Plaintiffs to certify a class. The Court's findings in this [Preliminary Order] shall have no effect on the Court's ruling on any motion to certify any class in this litigation, or appoint Class Representatives, and no party may cite or refer to the Court's approval of the Settlement Class as binding or persuasive authority with respect to any motion to certify such class or appoint Class Representatives.

OK  
approved

This language is based upon the preliminary approval order entered in *In re Packaged Ice Antitrust Litigation*, No. 08-md-01952, 2010 WL 3070161, at \*5 (E.D. Mich. Aug. 2, 2010).

The above  
requested language  
is approved as incorporated  
SO ORDERED  
USDJ  
cc: All Counsel (via ECF)  
11-17-15

Respectfully submitted,



Andrew C. Finch

<sup>1</sup> Settlement Agreement Between Plaintiffs and the Barclays Defendants ¶¶ 1.17, 4 (Oct. 7, 2015), Dkt. No. 218-1; see also Proposed Order Preliminarily Approving Class Action Settlement and Conditionally Certifying a Settlement Class ¶ 4 (Oct. 30, 2015), Dkt. No. 216-1.